

PLANNING BOARD MEETING

TIPP CITY, MIAMI COUNTY, OHIO

July 10, 2007

Meeting

Chairman Michael McFarland called this meeting of the Tipp City Planning Board to order at 7:30 p.m.

Roll Call

Roll call showed the following Board members present: Mike McFarland, John Berbach, Bryan Blake, Robert Horrocks, and Mark Springer.

Others in attendance: Assistant City Manager Brad Vath, City Planner/Zoning Administrator Matt Spring, and Board Secretary Marilyn Fennell. Those signing the guest register included: John Canzonere, Carla Brogden, Dianne Grandinette, Joe Bagi, Eric Eidemiller, David Burig, Elden Eidemiller, Kristin Mantia, Gearied Hitchcock Jr., and William Peffly. Mike Kelly of the *Tipp Herald* and Nancy Bowman of the *Dayton Daily News* were also present.

Approval of Minutes
June 12, 2007 Meeting

Mr. Blake moved to approve the minutes of the June 12, 2007 meeting. Mr. Springer seconded the motion. Motion carried 5-0.

**Items not on the
Agenda**

There were no comments on items not on the agenda.

NEW BUSINESS

Deadline Dates

Chairman McFarland announced that the next regularly scheduled Planning Board meeting would be held Tuesday, August 14, 2007. Preliminary Plans, Final Plats and Site Plans must be submitted by 5:00 p.m. on July 23, 2007 and temporary sign requests for display over 30 days must be submitted by 5:00 p.m. on August 8, 2007.

Swearing in-those
wishing to give testimony

Those wishing to speak during the public hearings were sworn in at this time by Mr. Vath, notary.

Carla Brogden, Tipp
Health Shoppe, 5205
S. CR 25A- Special
Use

Mr. Spring said the applicant seeks approval of a Special Use Permit for the operation of the Tipp Health Shoppe, 5205 S. CR 25A. The shop would involve two uses, 1) retail trade of essential oils, Arbonne Skin Care, Ecoquest Clean Air, and Nature Sunshine Supplements, and 2) providing reflexology services.

Retail sales are a permitted use in the General Business zoning district but a business specializing in reflexology is not listed as a permitted or a special use. However, Section §154.049(B)(2)(m) notes that other uses determined by the Planning Board to be of the same general character as the permitted and special uses contributing to the district's role in providing services to the community are permitted as special uses. The general and specific requirements for special uses were listed in the staff report. Staff recommended that any Planning Board approval would include the business conducting reflexology is of the same general character as the permitted and special uses within the GB-General Business Zoning District previously listed and is determined by the Planning Board to contribute to the district's role in providing services to the community and grants a Special Use for the same. Any signage for the proposed business shall require a separate Zoning Compliance sign permit subject to the approval. The applicant must

William Peffly, II, Amity
Mold, 1411 Commerce
Park Drive, IL 3244-
Temporary Use

obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site prior to the construction/undertaking of any such proposed modifications.

Mr. McFarland asked for any questions or comments. There were none. Mr. Springer **moved to approve the Special Use for 5205 S. CR 25A with the conditions listed in the staff report:**

1. **That the Planning Board finds a business conducting reflexology of the same general character as the permitted and special uses within the GB – General Business Zoning District previously listed and is determined by the Planning Board to contribute to the district's role in providing services to the community and grants a “Special Use” for the same.**
2. **Any signage for the proposed business shall require a separate Zoning Compliance Sign Permit subject to approval.**
3. **The applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site prior to the construction/undertaking of any such proposed modifications.**

Mr. Berbach seconded the motion. Motion passed 5-0.

Mr. Spring said the applicant was seeking a temporary use for a one-day car show to be located in the off-street parking of Amity Mold. The proposed date is August 5, 2007 from 11am to 5pm. Admission to the car show is free with a \$20 registration fee to be charged to car show participants. Amity Mold/Kare Plastics will not be open for business during the event. The Temporary Use would consist of approximately 100 show cars displayed in the off-street parking area, a registration table, a 10' x 20' tent erected in the northeast grassy area adjacent to the parking area, a vendor selling hot dogs, hamburgers, etc, a stage area in the east-central grassy area adjacent to the parking lot for trophy and music provided by a DJ, and two porta-johns will be provided.

Staff recommended approval with the following conditions:

1. The Temporary Use shall only be valid only August 4, 2007.
2. The applicant shall obtain approval from the Tipp City Fire Chief prior to the erection of the any proposed tents regarding fire safety regulations.
3. Gas inflatable signs/devises as defined in Code §154.092 (streamers, inflatable pontoon balloons, inflatable tires, etc.) shall be prohibited noted in Code §154.095.
4. Food (hot dogs, etc) can be provided at no charge, however prepared food shall not be sold during the Temporary Use event without prior approval from the Miami County Health District.
5. Signage for this event requires a separate Zoning Compliance Sign Permit, subject to approval.

Mr. McFarland asked where the public would park. Mr. Spring said there is a second parking lot in the front of the building on Commerce Park Drive. Mr. Springer asked about a rain date. Mr. Peffly

came forward and said his rain date is August 5. Mr. Vath said that could be included in the motion for approval.

Mr. Blake **moved to approve the temporary use for William Peffly, 1411 Commerce Park Drive with the following conditions:**

1. **The Temporary Use shall only be valid for August 4, 2007, with a rain date of August 5, 2007.**
2. **The applicant shall obtain approval from the Tipp City Fire Chief prior to the erection of the any proposed tents regarding fire safety regulations.**
3. **Gas inflatable signs/devises as defined in Code §154.092 (streamers, inflatable pontoon balloons, inflatable tires, etc.) shall be prohibited noted in Code §154.095.**
4. **Food (hot dogs, etc) can be provided at no charge; however prepared food shall not be sold during the Temporary Use event without prior approval from the Miami County Health District.**
5. **Signage for this event requires a separate Zoning Compliance Sign Permit, subject to approval.**

Mr. Horrocks seconded the motion. Motion carried 5-0.

Mark Lee, Menards,
DCWI-Tipp City LLC,
Kinna Drive (future
extension), Pt IL 2135
0.530 acres

Mr. Vath explained that the applicant is requesting Planning Board approval for a replat of a 0.530 acre parcel in conjunction with Menards Commercial Park Subdivision. Mr. Vath explained that the extension of Kinna Drive and the alignment of Kinna Drive with Larch Street creates a remnant 0.530 acre tract on the west side of Kinna Drive abutting the Paul Lee property. Menards wishes to convey this remnant to Mr. Lee, thus no buildable lot will be created. To facilitate this conveyance the Miami County Tax Map Department requires that the 0.530 acre tract be subdivided by land survey. The 0.530 acre tract will incorporate 10' utility easements on the eastern and northern property lines.

Mr. Vath said Attachment B showed the parcel in question and that staff recommended approval for this replat.

Mr. Springer asked when the street is built out, who will pay for the curb/gutter assessments. Mr. Vath said Menards Commercial Park Subdivision is paying for all public improvements for roadways including curb and gutter. There would be a future liability to Mr. Lee for the frontage along this parcel should sidewalks be required or curb deteriorate over time.

Mr. McFarland **moved to approve the replat to facilitate the conveyance of property from Menards to Paul Lee, Pt. Inlot 2135.** Mr. Blake seconded the motion. Motion passed 5-0.

City of Tipp City, 520
W. Main St., IL 421, Pt
IL 625, Inlots 626-629
& Pt IL 630-Replat &
ROW Dedication

Mr. Vath said the City of Tipp City is requesting approval for a replat including right of way dedication of the listed lots in conjunction with the expansion of the Tipp City Fire/EMS Station off-street parking area located at 520 W. Main St. The City purchased the two properties directly west in February 2005 and August 2006. The structures were razed in spring/summer of 2007 to make way for the expansion of the parking area. In the interim the lots are being used for the staging of the W. Main Street Streetscape project. In accordance with code, the replat would eliminate all of the old property lines and create a new single inlot

Felix Cooper, Gardens
Alive!, 457 E.
Evanston Rd., IL 2632-
Site Plan Review

of record.

Staff recommended approval of the replat with one condition that the applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan prior to the construction/undertaking of any such proposed modifications.

Mr. Berbach **moved to approve the replat for the City of Tipp City of Inlot 421, Pt. Inlot 625, Inlots 626-629, and Pt. Inlot 630.** Mr. Springer seconded the motion. Motion passed 5-0.

Mr. Spring said the applicant was seeking approval for the construction of a $\frac{3}{4}$ acre pond at the 22.979 acre property located at the northwest corner of E. Evanston Road and Interstate 75. Staff noted the pond has already been constructed. On May 2, 2007 the work was observed and Mr. Cooper was contacted and discussed the work, and the required Planning Board site plan approval. An application was submitted and an engineer was hired by Gardens Alive! and numerous discussions were held with staff. In the interim, OEPA mandated erosion control has been installed at the City's request.

The pond is approximately 170 feet in diameter and 7.5 ft. in depth. It is 120' from the western property line and 80' from the eastern property line. The pond has been constructed in the Zone "A" FEMA 100-year flood plain. Calculations and engineering certifications have been provided by Mike Cozatt, P.E. and he indicated that the flood plain has been raised by the pond's construction adjacent to I-75. Initial review by City Engineer Vagedes indicates the change in the flood elevation will only impact the applicant's property. However he had requested additional information from Mr. Cozatt to verify the impact on the I-75 property which is revised Attachment "B".

Mr. Spring continued that staff did recommend approval with two conditions:

1. The applicant construct a 10' wide overflow weir as designated on the site plan.
2. The applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan prior to the construction/undertaking of any such proposed modifications.

Mr. Springer asked about the flood plain being raised. Mr. Spring said the flood plain is a low spot where water would accumulate during a flood event and the pond is a depression and the rim would be a raised area. The southern part of that rim projects into the flood plain so it would raise that area. Mr. Vath added that one can "fill in" a flood area with an appropriate permit issued by the City but this pond only raised the flood plain less than 1' and was within our guidelines. He said Mr. Cozatt has confirmed that the impact would only be to Gardens Alive!'s property.

Mr. Springer asked the purpose of the pond. Mr. Vath said it was to water the plant stock and material on the property. Mr. Horrocks asked if the perimeter is fenced. Mr. Vath said it is completely fenced.

Mr. Blake **moved to approve the site plan for Gardens Alive**

Kristin Mantia, Tony's
Bada Bing, 132-134 E.
Main St., IL 3627-
Special Use
Expansion, Site Plan
Review, and Waiver of
off-street parking
requirements.

with the following conditions, the applicant must construct a 10' wide overflow weir as designated on the site plan and the applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan prior to the construction/undertaking of any such proposed modifications. Mr. Horrocks seconded the motion. Motion passed 5-0.

Mr. Spring said the applicant wishes to add 49.5 lin. ft. of privacy fence to create a patio in the southeast corner of the lot. It will allow the applicant and patrons a controlled area for outdoor smoking and consumption of alcohol in compliance with the recently adopted Ohio Revised Code 3791.01. Patrons of the tavern will be able to enter and exit the patio area through an existing man-door located on the southern façade of the structure. There are three items listed for consideration on this application.

Mr. Spring said the applicant proposes a 6' wooden privacy fencing with the building forming the other two sides of the rectangular patio/courtyard area. The eastern side will be 28' in length and 4' from the eastern property line. The southern side will be 21.6' in length and located 9' from the southern property line. There is to be a gate at the southwest corner. Mr. Spring said that the Restoration Board approved the fencing style on June 26, 2007.

Regarding the expansion of the "bar/tavern" use; it is not listed as a Special Use within the Community Center, CC Zoning District but other uses determined by the Planning Board to be of like character within those listed as permitted and special use would be permitted if approved by Planning Board. He continued that Tony's Bada Bing has been in existence since 1993 but an expansion of the area utilized for consumption of alcohol is an expansion of that use. The general and specific requirements for uses were listed in the staff report. Mr. Spring did read Specific Requirements, "a-e".

Mr. Spring said that the off-street parking requirements indicate that for taverns, bars shall provide one space for every 50 square feet of gross floor plus one space for each employee on the largest work shift. The total gross floor space of the facility is 2,320 s.f. for the first floor and 1,230 s.f. for the second floor. Mr. Spring said there had been a correction in his staff report regarding the number of employees; instead of 4, it is 2 during the largest work shift. He also noted the second floor is primarily utilized for larger parties and not for regular tavern patrons. Therefore, this indicates that 73 total parking spaces are required.

Mr. Spring said that Code §154.051(D) indicates that the required number of spaces if any, shall be determined by the Planning Board on a case-by-case basis and that the Planning Board may waive and all such off-street parking and loading space requirements. He noted that the proposed fencing would eliminate the two spaces in the existing nonconforming off-street parking area.

Staff recommended approval of the Special Use, the site plan and the waiving of all off-street parking spaces with the following conditions:

4. Planning Board approves the site plan for the proposed 6' tall

- privacy fence as delineated on the applicant's site plan.
5. Planning Board finds a bar/tavern of the same general character as the permitted and special uses within the CC – Community Center zoning district and grants a “Special Use” for expansion the Tony's Bada Bing tavern as noted in this staff report.
 6. Planning Board waives all off-street parking space requirements for 132-134 E. Main Street for Tony's Bada Bing tavern as delineated in this staff report.
 7. The applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site **prior** to the construction/undertaking of any such proposed modifications

Mr. McFarland asked about the adjoining residential dwellings. He asked if there would be additional noise or smoke that would create a problem. The property is surrounded by the Community Center zoning district and there are properties located directly adjacent that are residentially occupied. The proposal meets the letter of the code but there are residentially occupied properties nearby. Mr. McFarland asked if this was going to open a can of worms for other bars/taverns in the city. Mr. Vath said this is the first establishment to address the new smoking rules. Mr. Blake asked if restaurants are able to have tables out front. Mr. Vath said within the Community Center district there are some provisions to allow that. The enforcement of the smoking ban is through the Miami County Health Dept. Mr. Spring said the applicant is trying to keep the patrons within their property and not having them meandering out front to smoke.

Ms. Kristin Mantia came forward. She said the issue is people are going outside to smoke, there is one bartender on duty, and alcohol is going out front and they are trying to watch what is going on. Mr. Springer asked the use of the current back door. Ms. Mantia said it was for deliveries and the area being fenced off is not being used for public parking. Mr. Blake asked if the fenced area was to be covered. Ms. Mantia said it was not. There will be someone watching the back area. Mr. Springer asked if the fence would be adjacent to the sidewalk. Ms. Mantia said it would come off the edge of the building as shown on the site plan. The gate would go into the alley. Mr. Blake asked about the bollards. Ms. Mantia said the back section of the building is for storage; the kitchen is in front of that, therefore the space used for the business is 1,360 s.f. The rest is storage and the kitchen that is not used.

Mr. Horrocks asked if someone who has consumed a bottle of beer and smoked a cigarette out back will dispose of the bottle out back or do they have to walk it back in. Ms. Mantia said they are not promoting persons taking the alcoholic beverages outdoors but many don't remember that. They will be adding disposals for cigarette butts. Mr. Horrocks asked if they might be planning a deck down the road. Ms. Mantia said it was just to accommodate the smokers outside and have them come back in to purchase a beverage.

Mr. Berbach said that in the past Planning Board has waived the off-street parking requirements for future like-uses. Mr. Spring said that was correct but he recommended that they only consider this use currently. A new use could be revisited at a later date if necessary. Mr. Berbach said there are other state laws regarding the smoking that might

prevail but the Board was only being asked to approve a fence. Mr. Vath said there are also fire code that the Fire Chief needs to consider as far as ingress/egress. Ms. Mantia said she spoke with the Health Department and the smokers have to be away from the door.

Mr. Berbach moved to approve the site plan approval for the 6' privacy fence as shown on the site plan, the Planning Board finds the use to be of the same general character as the permitted and special uses within the CC Zoning District and grants a Special Use for the expansion of the use, the Planning Board waives all off-street parking requirements for 132-134 E. Main Street (bar/tavern use only), and the applicant must obtain prior approval/authorization from the Planning Board for any proposed exterior modifications to the site before the construction/undertaking of any such proposed modifications. Mr. Blake asked if the entire requirements were being waived. Mr. Spring said all of the off-street parking was being waived, for practical purposes; two current spaces are being waived for the current business. Mr. Blake seconded the motion. Motion passed 5-0.

Public Hearing: David & Carolyn Glaser, 1330 E. Evanston Rd., IL 4043 & 4044-Zoning Map Amendment R-1 to R-1A

Mr. Vath said the Board members received a letter from the applicants requesting that this matter be continued until the August 14, 2007 meeting. They have modified their request to reduce the amount of property to be rezoned from R-1 to R-1A, to only 0.5881 acres. Neighbors will be renotified.

Mr. McFarland moved to continue the public hearing for David and Carolyn Glaser, 1330 E. Evanston Road, zoning map amendment until August 14, 2007. Mr. Horrocks seconded the motion. Motion passed 5-0.

Fieldstone Place, 105, 125, 155, 175 E Evanston Rd., Pt IL 3601, PRD-Preliminary Plan

Mr. Spring said as of 5pm, July 5, 2007, there were several incomplete items on the submission of the Final Plan. This included:

- 1) The revised construction schematics provided on July 2, 2007, contained multiple omissions of changes previously requested by City staff.
- 2) The declaration of covenants, conditions and restrictions for Fieldstone Place provided on July 2, 2007 contains a number of corrections and modifications, which need to be promulgated by Michael Staudt, attorney for the applicant.
- 3) Due to the incomplete declaration of covenants, conditions and restrictions for Fieldstone Place, the City has not received the revised Final Plat for review, as the Final Plat requires language from the declaration of covenants, conditions which has not been finalized.
- 4) Work also continues on the Construction and Subdividers agreement, which must be reviewed by the developer.

Mr. Spring said since these items are incomplete, staff is requesting the public hearing be tabled until the August 14, 2007 meeting or a mutually agreed upon time for a Special Planning Board Meeting, which will allow additional time for the completion of the outstanding items. A possible date could be Tuesday, July 31, 2007.

Mr. Horrocks moved to table the matter until the August 14, 2007 meeting. Mr. Vath said staff was willing to go with the July 31st

Public Hearing-Diane Grandinette, 321 N. Fourth St. IL 854 & Pt. OL 65- Zoning Map Amendment-Add LD overlay district

date. Mr. Springer said if they are not ready there is no reason to hold a special meeting and he agreed with the August 14th date. Mr. Springer seconded the motion. Motion passed 5-0.

Mr. McFarland **moved to open the public hearing.** Mr. Berbach seconded the motion. Motion passed 5-0.

Mr. Spring said that the City was requesting a positive recommendation to add the LD, Legacy District overlay to this property which is zoned I-1D, Light Industrial at 321 N. Fourth Street. On May 8, 2007 the Board did forward a positive recommendation to City Council regarding the addition of the LD Overlay District for the Legacy District properties. This property was inadvertently omitted with the initial request for rezoning of the original Legacy District properties. The Legacy Overlay District zoning was adopted on June 18, 2007, (Ordinance 20-07).

Mr. Berbach asked if there could be future additions to this Legacy District. Mr. Spring said this particular property should have been included and essentially the City has included all of the I-1D properties that are contiguous to the original planning target area.

Mr. Horrocks **moved to close the public hearing.** Mr. Springer seconded the motion. Motion carried 5-0.

Mr. Horrocks **moved to recommend to Council, the addition of the Legacy District Overlay (LD) zoning for 321 N. Fourth St., IL 584 & Pt OL 65.** Mr. Springer seconded the motion. Motion passed 5-0.

Public Hearing- City of Tipp City, IL 4049, E. Main St. 23.203 acres; (E SR 571)- Zoning Map Amendment

Mr. McFarland **moved to open the public hearing.** Mr. Berbach seconded the motion. Mr. Spring said the annexation for this property, Inlot 4049 was effective on May 21, 2007. It is located on the eastern limits of the Tipp City corporate limits. Code states that within three months after the effective date of the annexation, the Planning Board shall recommend the appropriate permanent zoning district for such to City Council, (§154.150-§154.161).

The inlot is within Planning Area #30 of the Tipp City Comprehensive Master Plan. This planning area is within a flood hazard area and is designated "Open Space/Conservation/Recreation" to reflect the intended use. Staff recommends a permanent zoning district of CD/FA/WP (Conservation District/Flood Hazard/Well Field Protection) for Inlot 4049.

Mr. Blake **moved to close the public hearing.** Mr. Horrocks seconded the motion. Motion passed 5-0.

Mr. Blake **moved to recommend zoning map amendment for Inlot 4049 from F-1 (Miami Co.) to CD/FA/WP (Conservation District/Flood Area/Well Field Protection.** Mr. Springer seconded the motion. Motion passed 5-0.

Public Hearing- US Bank for S. Joe Eidemiller, 610 W. Kessler- Cowles Rd.

Mr. McFarland **moved to open the public hearing.** Mr. Horrocks seconded the motion. Motion passed 5-0. Mr. Vath said this is the request for rezoning the \pm 75.565 acre tract located at 610 W. Kessler-Cowlesville Road. The current request is for 7.454 acres as

Planned Commercial and 68.111 acres as Planned Residential from I-1/POI (Light Industrial/Planned Office Industrial). The applicant has provided two specific conditions (Attachment E) that will be imposed on the proposed rezoning. 1) The 7.454 acres of Planned Commercial will be developed using only those uses included as permitted and accessory uses in OS (Office Service), CB (Convenience Business), and GB (General Business) Districts. 2) The land consisting of approximately 22 acres at the northern most portion of the Planned Commercial District would be developed as luxury condominium community consisting of quad-style residences targeted primarily but not exclusively to the "active adult" demographics and is synonymous with the terms, baby-boomer, retiree, pre-retiree, and empty-nester. Mr. Vath continued that the variety of uses within the staff report was listed for the permitted and special uses.

Mr. Vath then gave a brief history on the rezoning. On June 19, 1989 the parcel was annexed into the city. On December 4, 1989 the zoning district was changed from A1, Miami County, to I-1/PID. In 1993 the zoning was amended to I-1/POI, when the City did a comprehensive revision of the zoning code and zoning map. In July 2006, the applicant wished to rezone the entire parcel to PR, Planned Residential. Planning Board forwarded a negative recommendation to Council. On October 10, 2006, the applicant withdrew the rezoning request prior to any action by City Council. On April 10, 2007 Planning Board held a hearing for a request to rezone 75.565 acres of the parcel to PR-Planned Residential and 22.906 acres as PC, Planned Commercial. The Board forwarded a positive recommendation to Council. The legislation did not receive a sponsorship from City Council, therefore it died.

Mr. Vath said that on June 18, 2007, City Council, Planning Board and the applicants conducted a public workshop to further discuss the outstanding issues regarding any proposed rezoning. A variety of the issues were discussed. The Comprehensive Master Development Plan recommendations were in the staff report. Attachment "A" showed the north/south collector street with the proposed alignment. Mr. Vath said regarding the residential use, 80% of the area is noted as Industrial/Office Park with the balance at the north end as Professional Office/Service. He continued that the housing stock figures for Tipp City indicates there are 165 platted vacant lots as of June 25, 2007. Assuming 50 lots per year that is approximately a 3-year supply. Regarding the rezoning to commercial use, the PC zoning district allows permitted uses in OS, CB, HS, and GB. The applicants have indicated in their conditions that they would not seek any HS (Highway Service) uses.

Mr. Vath said the adjacent zoning surrounding the property, is R-1C to the north (Windmere/Woodlawn subdivision), to the south and east A-2 (Miami County agricultural zoning), and to the west, I-1/POI (Meijer). Some additional considerations included when the Meijer facility was approved it included a statement that for the Meijer facility "no semi-tractors, with or without trailers, other than emergency vehicles shall access or depart the property via Kessler-Cowlesville Road." As noted in the past that ordinance requirement has no legal or binding effect on the parcel in question, however it does indicate a policy preference towards traffic on Kessler-Cowlesville Road.

Mr. Vath said the configuration of the proposed zoning district provides a natural step down from the industrially zoned property to the east, Meijer. The proposed residential uses; their application indicates the specific uses, in Attachment "E". They have indicated a condominium style housing catering to empty-nesters market. The Thoroughfare Plan as shown on Attachment "D" has the 60' right-of-way north/south roadway which would bisect the property from north to south and it is shown on their plan.

Mr. Vath said to summarize:

- The proposed rezoning of the property to PR – Planned Residential is counter to the recommendations of the Comprehensive Master Development Plan regarding land development, with the CMDP recommending that this area should be utilized for Industrial/Office Park and to a lesser degree Professional Office Service.
- There is currently a 3-year supply of platted residential lots within Tipp City. The rezoning any portion of this property to PR – Planned Residential would add to this inventory.
- The proposed rezoning of the property to PC – Planned Commercial district is somewhat compatible with the recommendations of the CMPD being light industrial and office service.
- The existing industrial zoning designation of the property in question is hindered by the City's prior policy decisions to limit industrial truck traffic on Kessler-Cowlesville Road.
- The proposed rezoning provides a realistic step-down from the existing industrially zoned property to the east (Meijer) and the proposed PR – Planned Residential property.
- The ideal development of this acreage should be developed as one "planned" project and NOT bifurcated into residential and commercial parts.

Mr. Vath said the Planning Board's motion should clearly indicate the rezoning from I-1/POI to PR (68.111 acres) and PC (7.454 acres) in its recommendations to City Council, along with the two conditions in the applicant's letter and accompanying e-mail dated June 28, 2007 (Attachment E). For the record, the Planning Board received a letter dated July 2, 2007 from John Canzonere and an e-mail of June 21, 2007 from Martha Higgins, 655 W. Kessler-Cowlesville Road.

Mr. McFarland asked the Board members if they had any comments. Mr. Horrocks said he was not at the workshop with City Council; what was the outcome of the meeting? Mr. Vath said it was an open discussion about the different type of uses that were previously expressed. One of the concerns discussed was certainly, the potential Highway Services uses within the Planned Commercial area. The second was the acreage of the Planned Commercial, trying to reduce that amount but still provide a buffer from the Industrial property to the east. There was also some discussion regarding the Meijer facility and the uses, and the refrigerant processes. Mr. McFarland said that was an accurate summary. He added that what was provided to the Board was the front part of the quadrant. Before a site plan could be approved, it had to be all laid out. Mr. Vath said that was correct, that under a Planned Residential, if the rezoning was approved, the PR subdividing process requires a conceptual sketch, a preliminary plan, for the entire

75 acres. There can be modifications to preliminary plans and one can sequence the construction of the different phases of the development.

Mr. McFarland read Attachment E to the audience. Mr. Vath said there was a typo in the second line of Item No. 2. It should have said "Planned Residential District" rather than the "Planned Commercial District." Mr. Blake added that at the workshop meeting the number of available lots was also discussed. Some of the Council members stated that until a plan is put forth, only the zoning can be considered at this point.

Mr. McFarland opened the discussion to the audience. Mr. David Burig, HD Living Enterprises LLC, came forward. He had a PowerPoint presentation. He said Mr. Vath did a great job of giving the previous information on the matter. Mr. Burig then showed the Board the 5-acre buffer, 40' high mound between Meijer and the Eidemiller property. He showed some pictures of businesses that could locate there as the property is now zoned, it included an injection mold facility, a tool and die manufacturer, a body shop, in addition to some of the businesses removed by their condition removing Highway Service uses, such as bars and taverns, car and truck repair facilities, etc. He then showed a proposed entrance with a bridge, ponds, and architecture of what they are proposing to build. The almost 3.8 acre buildable area for the commercial district would have almost 30,000 sq. ft. for professional offices, medical type facilities; light retail would be unlikely due to the size and traffic. Mr. Burig continued they are proposing 80 dwellings in 20 quad buildings, European style architecture. There is a proposed 4,000 sq. ft. clubhouse with fitness center and swimming pool. There was some discussion about traffic generation and studies show single-family housing generates 10.96 trips per dwelling unit per day. This type of development as done by Epcon, their traffic studies show their developments only generate only 48-61% of those trips made in single-family housing. Mr. Burig said they would anticipate the residential portion to have 537 trips per day (at 61%). Most of the residents of active adult communities tend to drive on off-peak hours which lessens the stress on traffic impact. He continued that as the developer they would be bearing the cost of improving the south side of W. Kessler-Cowlesville Road as well as constructing the 60' right-of-way street as indicated on the Tipp City Thoroughfare Plan. There shall only be private driveways within the active adult condominium community will be constructed by the developer and maintained by the developer, as far as road maintenance, snow removal, etc. through the Homeowners' Association. Mr. Burig said they think this is responsible growth in an entirely new segment. This will not compete with the single-family lot inventory. It will attract residents to Tipp City from outside especially areas where there are repeated moratoriums against new construction. He said most of the buyers in this segment are not in the market for a new home. At this point there is no housing like this in Tipp City. These are all ranch-style and offer a chance for persons to downsize and simplify their lives.

Mr. John Canzonere, 725 Pinehurst Dr. came forward. He had thought he would not be available to attend the meeting and he had provided his reasons to deny or delay the rezoning of the Eidemiller property in writing. He wanted to repeat he was not against developing this area. He wished to bring up a few points from his letter. He said

while the applicant has shown nice photos and data of the Epcon model, the applicant has stated he is not a franchisee of Epcon nor has HD Living Enterprises built any of these units elsewhere. The applicant stated in the Dayton Business Journal that this type of product is scarce in the Tipp City area and the demand is there. Within a 10-mile radius of this development there are 27,000 people between the ages of 55 – 74, ideal candidates for the empty-nester living, yet a similar development, Benchwood (Benchrock) has been foreclosed on by Fifth Third Bank for \$8.5 Million. Huber Heights may be obligated for payments of \$100,000 for up to 20 years. The applicant has changed the design of this development three times, increasing the residential amount each time. Tipp City has greater than a 3-year supply of residentially lots zoned and a potential 7 year supply which can lower property values for the current housing in the area. Mr. Canzonere said he did not see the need to add a potential 400 or more lots to the supply of lots as Mr. Springer had stated at a previous meeting. He believed a market impact study should be performed prior to zoning being approved to assess the development's impact on the schools, traffic, and business infrastructure since it appears it is no longer the empty-nester community as planned. He continued that at a previous meeting the Tipp City Fire Chief stated that the ammonia hazard only required a 300' clearance from the spill. Mr. Canzonere said that is the minimum distance stated for accidents involving low-pressure trucks or tanks, not the high pressure system used at Meijer. However the risk management plan submitted by Meijer still puts at risk of an exposure of 2.5 miles at worst case or .2 miles for the ultimate scenario. The Fire Chief stated the ammonia is contained within the building; however the aerial views of the buildings shows the piping feeding the refrigerant system external to the plant as well as the high-pressure receiver which is also outside the plant. Mr. Canzonere wished to express to the Planning Board that he was not against development in this area but he thought it should be done in a balanced and sustainable way. He thanked the Board for the opportunity to make his comments.

Mr. Springer said he wished to clarify his statement, that it was a hypothetical statement regarding the number of living units. Mr. Canzonere said he understood that but the hypothetical does exist as the rest of the property is not shown as to what it can be. He did not think those traffic studies have been done. Mr. Vath said the Planning Board members know this is just the rezoning process and the development issues are brought in at later dates. The appropriateness of the zoning is what needs to be considered. The applicant has provided additional information on potential restrictions on the Planned Commercial Use and their initial proposal on the front 22 acres of the Residential area. Mr. Vath said those development issues come out as we start going thru the planning/development process under the PRD code.

Mr. Burig said the situation at Benchrock was misrepresented. The Epcon development, Villas at Benchrock, was started there when a golf course was going to be developed. The \$8.5 Million claim against Benchrock was against the master developer of that whole area, 680+ acres. He said the Benchrock community is still selling, in fact that group has broken ground on a similar project in Beavercreek. Mr. Burig said they believe Tipp City is good location, only a handful of these communities are built around golf courses. Mr. Burig addressed the

statement that he was not a franchisee of Epcon. He said that was correct, as of right now. He said upon obtaining the zoning, he would sign some paperwork along with his partner in HD Living Enterprises, who is an Epcon franchisee, and he becomes an Epcon franchisee. The reason, there is a significant upfront payment to the franchising organization which occurs at that point.

Mr. McFarland asked for further comments. Elden Eidemiller, 610 Kessler-Cowlesville, came forward and said that in regards to the truck traffic that might occur with the development of this property. He said the traffic will be significantly less than it is now as the farming use has 60-70 semis in and out of the property in a year.

Mr. Blake asked about a market impact study and wouldn't the Comprehensive Master Plan be the City's reference. Mr. Vath said the City's Code does discuss a traffic impact study as a potential thing that can be looked at as development goes thru and an actual market impact study, depending on one's definition, would deal with more the saturation of the housing market. He was not aware of that ever being required in Tipp City. Some of the developers themselves have done those studies to see if there is a market for their product. Some of the developers have shared those studies with Planning Board, as did Fieldstone. It is not a requirement under our code.

Mr. Springer clarified that the hearing tonight was for a recommendation for the rezoning request. Upon any type of rezoning, there will be a conceptual plan, a preliminary, then a final plan for the entire 75 acres that will require review by Planning Board and Council. Mr. Vath said that was correct. Mr. Springer asked if the rezoning occurs and some time down the road if the plan changes, the process could be stopped but it is still zoned Planned Residential. Mr. Vath said that the zoning runs with the land and the Preliminary Plan renews every 3-5 years after that, so it stays in place unless modified. The Mohr Farm was rezoned and it did not go thru the Preliminary Plan and Final Plan, it is just setting as PRD designation but it is still being farmed at this point in time. Mr. Springer said the reason for his questions, was that if somewhere there are changes; the City still has some control as to what will be built. Mr. Vath said there is more give and take between the developers and the City under the Planned Residential process.

There being no further comments or questions, Mr. McFarland **moved to close the public hearing.** Mr. Blake seconded the motion. Motion passed 5-0.

Mr. Springer commented that originally, several months ago, he was against the makeup of the amount of residential and commercial. He said the concept now is more compatible with the existing properties around the land. It is now a Planned Office Industrial and the potential uses in that zoning designation are long. He thought it was a better use as Planned Residential and Planned Commercial. It is a good step down from Meijer which is to the east. The Comprehensive Master Development Plan is a guideline and there is some mixed signals given within that area. He did not think this rezoning ran counter to the CMDP. Mr. Springer added that the inventory of PRDs that exists is mainly due to the changes in the Ohio annexation laws. There are several with no plans to develop at this time. He felt the PR process was better.

Mr. Horrocks said that Springmeade, east of Meijer, is something well planned and something that is well planned is better for this particular piece of property. He would look forward to something well planned for this area. The property has gone through a number of iterations and a lot of hard work has been done. He said people are living longer and longer in their homes and the existing population is spreading out and more homes need to be built in order to maintain the population that we have. He thought it would be a good idea to move this proposal forward.

Mr. Springer **moved to recommend to Council the rezoning of Pt. IL 2392, from I-1/POI to PR and PC with the conditions listed in Attachment "E"**. Mr. McFarland amended the motion to add **PR zoning (68.111 acres) and PC zoning (7.454 acres)**. Mr. Springer seconded the amendment. Mr. Horrocks seconded the motion. Motion passed 5-0.

Old Business

There was no Old Business to discuss.

Miscellaneous

City Council Reports:
June 18, 2007- Mr.
Blake

Mr. Blake reported that he attended along with Mr. McFarland and the Council adopted the Legacy District Overlay by a vote of 7-0. The resolution approving the Preliminary Plan for Fieldstone Place was adopted 7-0. An ordinance approving the Menard Commercial Subdivision was given a first reading. There was also the pre-meeting work session regarding the Eidemiller property rezoning.

City Council Meeting-
attendance
assignments
Set Special Meeting
Date – MVRPC
presentation

The Planning Board members completed their Council Meeting assignments for the balance of the calendar year.

Mr. McFarland **moved to set a special meeting for Tuesday, August 14, 2007 at 6:45pm for a presentation by the Miami Valley Regional Planning Board**. Mr. Vath said there was a handout regarding the regional land use planning process that they wish to present. Mr. Berbach seconded the motion. Motion passed 5-0.

Board member
comments

Mr. Berbach said he attended the workshop with Council and said he was disappointed with Council's consideration of the CMDP and the inventory of undeveloped residential lots. He said he thought it was important for the City not to grow too quickly and out of control like some southern Dayton communities.

Mr. Horrocks said he was concerned with the cost of having to repeat public hearing notices and the cost of reprinting. He asked if that was born by the applicant or absorbed by the City. Mr. Vath said the applicant has offered to reimburse the City for the expense of the additional notices and they have a paid a new application fee for the new application that went through the second time. Most of the fees are covered thru the reapplication fee. It has not become a problem yet.

Mr. Blake said he would second Mr. Berbach's opinion of the work session and he was a little surprised by some of the comments made regarding the inventory of lots in Tipp City. He said if we continue to mold the Comprehensive Plan to the scenarios presented to us, it may become at some point, unusable. He said the Planning Board needs to be cognizant of that when we are reviewing the applications.

Adjournment

Mr. McFarland thanked City staff for their diligence in preparing the materials for tonight's meeting. He also wished to thank the City for an excellent fireworks show for the 4th of July. Mr. Vath added that Monroe Twp. also contributed to the fireworks display.

There being no further business for discussion, Mr. McFarland **moved that the meeting be adjourned.** Mr. Horrocks seconded the motion. The motion unanimously carried. Chairman McFarland declared the meeting adjourned at 9:18 pm.

Michael McFarland, Planning Board Chairman

Attest: _____
Marilyn Fennell, Board Secretary